

SENATE BILL 106  
By Rochelle

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 39, relative to the provision of dependable, economical sources of energy to the citizens and residents of Tennessee.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 7-39-101, is amended by deleting the section in its entirety, and by substituting instead the following language:

(a) It is recognized by the general assembly that the provision of dependable, economical sources of energy to the citizens and residents of the State of Tennessee is vital to the health, welfare and economic well-being of the citizens and residents of the State of Tennessee and that the primary sources of energy in Tennessee are natural gas and electrical power. The general assembly further recognizes that both the market for natural gas and the market for electrical power have undergone major changes in recent years. In order to insure that the municipal distributors of natural gas and electricity have the flexibility and power to compete for and obtain natural gas and electrical power for redistribution on terms which will result in continuing availability of these energy sources at reasonable rates to the citizens and residents of the State of

\*56822626\*

\*000390\*

Tennessee it is the intent of the general assembly by this chapter to authorize the incorporation in the several municipalities of this state of public corporations to finance, acquire, own, operate, lease and dispose of rights, titles and interest of every kind and nature in natural gas properties located within or outside of the state of Tennessee, including gas in reservoirs or in storage, and including facilities of every kind and nature, both real and personal, for the drilling of wells, extraction of liquids and transportation of gas and liquids; to contract for the purchase of supplies of natural gas or any substitute therefore, including synthetic natural gas, liquefied natural gas, coal gas or other substance useable in lieu of natural gas, from any supplier located inside or outside the state of Tennessee; to finance, acquire, own, operate, lease and dispose of rights, titles and interest of every kind and nature in electrical production, distribution and transmission facilities located within or outside of the state of Tennessee, including facilities of every kind and nature, both real and personal, for the procurement of raw materials for the production of electrical energy; to contract for the purchase of supplies of electrical power or any substitute therefore from any supplier located inside or outside the state of Tennessee; and to vest such corporations with all powers necessary to enable them to accomplish such purposes.

(b) This chapter shall be liberally construed in conformity with such intent, it being hereby determined and declared that the means provided by this chapter are needed to provide for the continued availability to the citizens and residents of the state of Tennessee of natural gas and electrical power at reasonable rates.

SECTION 2. Tennessee Code Annotated, Section 7-39-102, is amended as follows:

(1) in subdivision (1) by deleting the words “a gas acquisition corporation” and by substituting instead the words “an energy acquisition corporation”;

(2) in subdivision (3) by deleting the language “gas” and by substituting instead the language “energy”;

(3) in subdivision (4) by deleting the subdivision in its entirety, and by substituting instead the following language:

(4) "Governing body" means, with respect to an acquisition corporation established to exercise the powers herein described with respect to natural gas, any board, commission or other instrumentality of a municipality having jurisdiction, control and management of the gas distribution system of that municipality; and, with respect to an acquisition corporation established to exercise the powers herein described with respect to electrical power, any board, commission or other instrumentality of a municipality having jurisdiction, control and management of the electrical power distribution system of that municipality. With respect to any action permitted to be taken or required to be taken under this chapter by any such board, commission or instrumentality, if such board, commission or instrumentality by resolution waives its right to take such action or if no such board, commission or instrumentality exists, the power to take such action shall be vested in the body in which the general legislative powers of the municipality are vested; and

(4) in subdivision (5) by deleting the subdivision in its entirety, and by substituting instead the following language:

(5) "Municipality" means any incorporated city, town or metropolitan government in this state with respect to which an energy acquisition corporation may be organized and for the benefit of which such corporation will function;

SECTION 3. Tennessee Code Annotated, Section 7-39-201(a), is amended by deleting the words "a gas", and by substituting instead the words "an energy".

SECTION 4. Tennessee Code Annotated, Section 7-39-202(a)(2), is amended by deleting the word "gas", and by substituting instead the word "energy", and by adding at the end thereof the following:

; provided, however, if the powers of the corporation are limited solely to gas, the corporation may be designated the gas acquisition corporation and, if the powers of the corporation are limited solely to electricity, the corporation may be designated the electrical power acquisition corporation.

SECTION 5. Tennessee Code Annotated, Section 7-39-203(b), is amended by deleting the word “gas”, and by substituting instead the word “energy”.

SECTION 6. Tennessee Code Annotated, Section 7-39-302(a), is amended by deleting the introductory sentence thereof in its entirety and substituting instead the following language:

Every energy acquisition corporation has the following powers, unless expressly limited by the terms of the certificate of incorporation, together with all powers incidental thereto or necessary for the performance of those hereinafter stated, to:

SECTION 7. Tennessee Code Annotated, Section 7-39-302(a), is further amended by adding the following language to be designated as subdivisions (6) and (7), redesignating subdivisions (6), (7), (8) and (9) accordingly:

(6) Acquire, hold, deal in and dispose of property of all kinds, or any interest therein, for the purposes of the corporation, and, without limiting the generality of the foregoing, acquire, own, operate, lease and dispose of rights, titles and interest of every kind and nature in electrical power production, distribution and transmission facilities located within or outside the state of Tennessee, including facilities of every kind and nature, both real and personal, for the procurement of raw materials for the production of electrical energy;

(7) Acquire electrical power by any contract or arrangement from the Tennessee Valley Authority or any similar governmental agency or any other person or entity, whether within or outside the state of Tennessee, and acquire any kind of interest, alone or with others, in any electrical power production or transmission facilities, including all

substations and other facilities necessary therefore or related thereto, whether within or outside of the state of Tennessee.

SECTION 8. Tennessee Code Annotated, Section 7-39-302(b), is amended by deleting the subsection in its entirety, and by substituting instead the following language:

(b) The powers of such corporations shall be exercised for the primary purpose of acquiring natural gas, or natural gas substitutes, for the use of the municipally-owned gas distribution systems within the state of Tennessee, or acquiring electrical power for the use of the municipally-owned electrical power distribution systems within the state of Tennessee, or both, and all sales or other dispositions of gas or other mineral products acquired by such a corporation shall be made to such gas distribution system of its associated municipality, and all sales or other dispositions of electrical power acquired by such a corporation shall be made to such electrical power distribution system of its associated municipality, but, at the discretion of the corporation, may also be made to other gas or electric distribution systems, whether privately or publicly owned, within or outside of the state of Tennessee or to such other purchasers within or outside the state of Tennessee, upon such prices, terms and conditions, as it shall deem to be in the best interest of the corporation.

SECTION 9. Tennessee Code Annotated, Section 7-39-303(a), is amended by deleting the words "A gas", and by substituting instead the words "An energy".

SECTION 10. Tennessee Code Annotated, Section 7-39-303(a), is further amended by adding the following language to be designated as subdivision (4), redesignating subdivision (5) accordingly:

(4) The construction of electrical power distribution, transmission and production facilities and all other facilities reasonably necessary or related to the purchase, distribution, or transmission of electrical power for use by electrical power distributors or any other person or entity.

SECTION 11. Tennessee Code Annotated, Section 7-39-303(b), is amended by inserting the language “or electrical power transmission lines” between the words “for laying pipelines” and the language “, or otherwise”.

SECTION 12. Tennessee Code Annotated, Section 7-39-304(a), is amended by deleting the words “municipally-owned gas” and by substituting instead the words “municipally-owned gas or electrical power”; by deleting the language “loans to its gas acquisition corporation” and by substituting instead the language “loans to its energy acquisition corporation”; and by deleting the word “gas” from the remainder of the subsection wherever the word appears.

SECTION 13. Tennessee Code Annotated, Section 7-39-304(b), is amended by deleting the word “gas”, and by substituting instead the word “energy”.

SECTION 14. Tennessee Code Annotated, Section 7-39-308(a), is amended by deleting the word “gas”, and by substituting instead the word “energy”.

SECTION 15. Tennessee Code Annotated, Section 7-39-310, is amended by deleting the section in its entirety, and by substituting instead the following language:

The corporation shall be a nonprofit corporation and no part of its net earnings remaining after payment of its expenses shall inure to the benefit of any individual, firm or corporation, except that in the event the board of directors of the corporation shall determine that sufficient provision has been made for the full payment of the expenses, bonds or other obligations of the corporation, then any net earnings of the corporation thereafter accruing from gas properties or rights shall be paid to the municipal gas distribution system or systems for the benefit of which the corporation was organized and any net earnings of the corporation thereafter accruing from electrical power properties or rights shall be paid to the municipal electrical power distribution system or systems for the benefit of which the corporation was organized.

SECTION 16. Tennessee Code Annotated, Section 7-39-311, is amended by deleting the word “gas”, and by substituting instead the word “energy”.

SECTION 17. Tennessee Code Annotated, Section 7-39-312, is amended by deleting the word “gas” in the first sentence prior to the colon, and by substituting instead the word “energy”.

SECTION 18. Tennessee Code Annotated, Section 7-39-312, is further amended by:

(1) deleting subdivision (1) in its entirety, and by substituting instead the following language:

(1) An energy acquisition corporation is deemed to be a “public agency,” as defined in § 12-9-103, for all purposes of the Interlocal Cooperation Act, compiled in title 12, chapter 9. Specifically, but without limitation, one (1) or more energy acquisition corporations may act jointly with each other or with other public agencies in the exercise of their powers as provided in § 12-9-104. In addition, an energy acquisition corporation may, pursuant to § 12-9-108, contract with other public agencies, whether within or outside this state, to perform any service, activity or undertaking authorized by this chapter, and in such event any such other public agency shall be deemed to be the corporation’s “associated municipality” for purposes of §§ 7-39-302(b) and 7-39-304, but not for any other purposes of this chapter, and may also contract with any other person or entity, either within or outside this state, to perform any service, activity or undertaking authorized by this chapter.

(2) in subdivision (2) by deleting the words “A gas”, and by substituting instead the words “An energy”.

(3) in subdivision (3) by deleting the words “Any gas”, and by substituting instead the words “Any energy”.

SECTION 19. Tennessee Code Annotated, Title 7, Chapter 39, Part 3, is amended by adding the following language as new sections to be appropriately designated:

7-39-313. Any associated municipality shall have the power, together with all powers incidental thereto or necessary for the performance thereof, exercisable alone or jointly with any other public agency, to purchase, by contract or other arrangement, natural gas or electrical power, or both, from an energy acquisition corporation.

7-39-314. Neither this chapter nor anything herein contained shall be construed as a restriction or limitation upon any powers which a corporation might otherwise have under any laws of this state, but shall be construed as cumulative of any such powers; however, to the extent the provisions of this law conflict with any other provisions of law or are inconsistent with any other provisions of law, the provisions of this chapter shall prevail. The authority and powers granted pursuant to this chapter may be exercised in accordance with the terms hereof, notwithstanding any other requirements, restrictions or procedural provisions contained in any general law, private act or home rule charter and notwithstanding any other provisions to the contrary contained therein.

SECTION 20. The Tennessee Code Commission is directed to revise all catch lines, chapter headings and index and table of contents entries to reflect the provisions of this act.

SECTION 21. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 22. This act shall take effect upon becoming a law, the public welfare requiring it.